

EXHIBIT Q

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
No. 2010174207

Appeal from Newberry County
Court of Common Pleas

J. Mark Hayes II, Circuit Court Judge
Civil Action No. 2006 CP 36-00129

Jack Brooks and Ellen Brooks, on behalf of
themselves and others similarly situated,

Respondents,

v.

GAF Materials Corporation,

Appellant.

**RESPONDENTS' MOTION TO DISMISS APPEAL
AND MEMORANDUM IN SUPPORT**

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, respondents respectfully move and request that this Court dismiss the appeal in this matter for the reason that on April 25, 2011, Appellant GAF Materials Corporation ("GAF"), filed a Notice of Removal in the United States District Court for the District of South Carolina. See Exhibit A attached herewith (Notice of Removal). As such, GAF has elected to proceed with the trial of this matter in another forum and has made such election prior to any portion of the briefing other than the initial brief of appellant, and prior to any argument or ruling concerning its interlocutory appeal. To the extent that GAF had any right to make an interlocutory appeal, this election effectively abandons the pending interlocutory appeal.

This case is now within the jurisdiction of the United States District Court, including, according to GAF, "all proceedings in the Court of Common Pleas and in the Court of Appeals."

Accordingly, respondents move and request that this Honorable Court, based on the Notice of Removal, file an Order dismissing the pending appeal.

By:



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